

# RFP EVALUATORS GUIDE

## INTRODUCTION

You have been selected to serve in the Proposal Evaluation Committee for a Request for Proposal (RFP). The RFP process measures economy and quality when purchasing goods and services, and it ensures fair treatment of vendors desiring to do business with the State. The evaluation committee and its functions are an essential part of the process leading to the award of an RFP.

It's important for you as an evaluator to know what will be expected of you before committing to this duty. Being on an evaluation committee will require long hours of concentrated effort. Please carefully consider what you have read in this guide and let the Procurement Officer know if you have any reservations before you start.

## THE PROPOSAL EVALUATION COMMITTEE (PEC)

The Procurement Officer responsible for the procurement determines the number and makeup of the evaluation committee. Committees are usually comprised of either three or five members, but they can be any size. The majority of members should be State employees or public officials. The Procurement Officer may include a mixture of members from several departments of diverse backgrounds or include members who are not State employees or public officials.

- **Role of the Committee.** The role of the evaluation committee is to award points to the proposals so that they may be ranked. Once ranked, the proposals will be ushered through the remaining process by the Procurement Officer until an award can be made or the procurement is canceled.
- **Role of Committee Members.** You will be one of several evaluators on the evaluation committee. Your duty is to apply judgment in awarding points to the proposals for the purpose of ranking them. You will be limited to considering only the evaluation criteria published in the RFP.
- **Role of the Procurement Officer.** The Procurement Officer will be the evaluation committee chairman, and may or may not award points for proposals. The Procurement Officer has overall responsibility for all matters involving the procurement and its procedures, and they are responsible for seeing that applicable state laws, rules, and policies are followed.

## REPLACEMENT OF COMMITTEE MEMBERS

The Procurement Officer may replace any member on the committee or reconstitute the committee in any way the Procurement Officer deems appropriate. Any committee member may request to be replaced at any time.

## **CONFLICT OF INTEREST**

Once the proposals have been received and it is clear which companies are involved in the RFP, each member of the evaluation committee must make sure that they do not have a potential conflict of interest. An example of a conflict of interest is a situation in which a state employee (or family member) owns a business that is competing for a state contract, and that state employee participates in the decision-making process to award that contract. It is important to avoid even the appearance of impropriety in the evaluation process. Disclose potential problems at the earliest possible time and make adjustments to keep the process fair to all competitors. Your awareness of a potential conflict may not arise until you are well into the evaluation process. If there is any question about a potential conflict of interest, notify the Procurement Officer immediately and consult legal counsel. If a conflict of interest exists, that person cannot be a member of the evaluation committee.

## **REQUEST FOR PROPOSAL**

It is very important that all Proposal Evaluation Committee members read the Request for Proposal and have a clear understanding of the requirements and evaluation criteria before attempting to evaluate proposals. The Request for Proposal is a document that describes all the requirements of this project, how proposals must be prepared, and how proposals will be evaluated. After all deadline for receipt of proposals, all proposals received must be evaluated against the criteria set forth in the Request for Proposal.

## **RESPONSIVENESS**

The Procurement Officer needs to review all proposals for responsiveness before distributing them to the Proposal Evaluation Committee. This will prevent the evaluation team from reading a proposal that can't be considered for award. An offeror, an individual or firm that submits a proposal, is considered "responsive" if their proposal has been prepared in full compliance with the requirements of the RFP. The evaluation committee cannot evaluate proposals deemed non-responsive.

## **POINTS EARNED BEFORE EVALUATION COMMITTEE CONSIDERATION**

In some cases, proposals may be presented to you that have had some points awarded before you receive them. For example, the Procurement Officer determines the evaluation of price and adjustment for reciprocal preference prior to committee deliberations. In these instances, such points are not subject to adjustment by the committee.

## **INITIAL MEETING OF THE EVALUATION COMMITTEE**

It is recommended that the Procurement Officer meet with the evaluation committee before distributing the copies of proposals received. Discuss the proposal review and scoring process to ensure each committee member has a clear understanding of the scoring process and how points will be assigned. Provide PEC members with a copy of each proposal, this instruction sheet, and the evaluation worksheets to be used when scoring proposals.

Develop a schedule for the evaluation process, based upon the tentative schedule laid out in the RFP. Remember, the committee members need to be given sufficient time to read and evaluate each proposal. Plan ahead for those members of the committee that need to travel to attend meetings, and use telephone or video conferencing whenever practical.

**Evaluation Process Decision:** There are two ways for the PEC to evaluate proposals and document the results:

- 1) Each member on the PEC evaluates each proposal and records their ratings on an evaluation worksheet. Compile the resulting evaluations from all team members, resolve any factual oversights, make sure the resulting team member notes are legible and produce a summary that constitutes the PEC's recommendation.
- 2) Each member on the PEC evaluates each proposal and makes notes about their observations and tentative rating on an evaluation score sheet. The PEC then meets as a group to review the individual proposals; the PEC arrives at a group consensus as to the associated ratings and produces a summary that constitutes the PEC's recommendation.

Either approach is workable, but the issuing agency should decide which approach to take before beginning the evaluation process.

### **PRICES MAY NOT BE REVEALED UNTIL AFTER FIRST SCORING**

In some cases, the committee may not know the price until after it has compiled its first scoring. In general this is done to avoid the possibility of the prices influencing the scoring when non-price criteria are being considered.

### **EVALUATION WORKSHEET**

An evaluation worksheet is used to guide the PEC members in their review and evaluation of proposals. An evaluation worksheet provides a listing of individual evaluation criteria and the rating scale to be used. The evaluation worksheet does not include pricing. The resulting evaluation framework is very important because it:

- ❑ Provides a means for all PEC members to review and evaluate proposals in a consistent and objective manner;
- ❑ Helps the evaluation committee discuss differences in their initial review and, for those differences that are based on an incomplete or incorrect reading of the information presented, resolve them; and
- ❑ Documents the results of the PEC's work and provides support for the final recommendations.

Any notations made on the evaluation worksheet will become public record. Each evaluation worksheet should be completed in full, signed, and dated by the PEC member.

## **RATING SCALE FOR USE IN EVALUATION**

The rating scale establishes standards by which points are assigned to proposals, and it ensures that members of the PEC evaluates each proposals with consistency.

An example of a rating scale that uses 4 values (0, 1, 2 and 3) is presented as follows:

<u>Rating Scale for Use in Assessing Vendor Responses</u>	
Understanding the Project (5 points maximum)	
Value	Explanation
0	Not addressed or response of no value
1	Limited applicability
3	Some applicability
5	Substantial or total applicability

A zero value typically constitutes no response or an inability of the vendor to meet the criterion. In contrast, the maximum value should constitute a high standard of meeting the criterion. Each intermediate value should be set to cover some intermediate condition.

The rating scale needs to be customized each evaluation criterion. For example, if criteria can be evaluated as only “yes” or “no” (e.g., offeror can submit an electronic report in required format by noon Friday), then the rating scale would have only two possible values (i.e., the maximum points or a zero).

## **NON- NUMERICAL SCORING SYSTEMS REQUIRE EXPLANATION**

Non-numerical rating systems are sometimes chosen because evaluation criteria are difficult to categorize or are too uncertain or too subjective to determine a reasonable numerical rating system. If the Procurement Officer has chosen a non-numerical rating system, the decision as an evaluator must be explained and documented. With a non-numerical rating system it is necessary, for the sake of fairness to the competitors, for you to explain in writing how you came to rank the individual offers the way you did. Your explanation must be rational and consistently applied from competitor to competitor. The Procurement Officer will tell you how to exercise your independent judgment, but will make sure your written description of how you ranked the offers is rational, understandable, consistent with your ratings, and is not in conflict with the terms of the or requirement of the RFP. The Procurement Officer will not write or re-write your explanation on your behalf; it must be in your own words.

## **COMMUNICATIONS WITH PROPOSER OUTSIDE COMMITTEE**

You must only discuss this procurement within the activities of the procurement committee. If the Procurement Officer has provided for the offerors to have communication with the evaluators, it will be done while the committee is in session so all members can benefit from the communication at the same time. It's not appropriate

for you to have direct communication with any of the proposers outside of the formal in-session communications arranged by the Procurement Officer. Any attempt by one of the proposers to have direct or indirect communication with you outside of a committee session should be avoided and reported to the Procurement Officer.

## **INDEPENDENT JUDGMENT**

In evaluating proposals, you must exercise “independent judgment.” You have been entrusted with an essential part of an important public decision. Exercise your judgment in a manner that is not dependent on anyone else’s opinions or wishes.

You can seek to increase your knowledge before you award points by asking questions and seeking appropriate information. Ensure, however, that you do not allow your actions to be influenced by another person’s wishes (i.e. a desire that you award more points to a particular offeror.)

It’s possible you will hear from other persons not on the evaluation committee (even if you don’t want to) about what you should do in awarding points to this or that proposal. For the most part these contacts by others will not rise to the level of serious concern unless you feel your independence is being compromised in some manner or your decisions are being influenced to the point of being dependent on another person’s desires. Report any attempts by others to improperly influence you to favor or disfavor a particular proposer to the Procurement Officer immediately.

The exercise of independent judgment applies not only to possible influences from outside the evaluation committee, but also to influences from within the committee. It’s normal and acceptable for there to be debate, even passionate debate, within the committee about how well a proposal meets the evaluation criteria. As an independent evaluator you may be swayed by debate in making your judgment about many points you wish to award, and that is perfectly OK. However, evaluators may not act in a concerted way to either favor or disfavor a particular proposal or group of proposals, as the evaluation would not be based upon the independent judgment of the individual evaluators.

## **EVALUATING PROPOSALS**

We recommend that evaluation committee members read each proposal twice—the first time for understanding, without evaluating. Then, review and evaluate each proposal to measure the quality and degree of compliance with the evaluation criteria. Make notes and give tentative ratings on the evaluation score sheet. Remember, these forms become public documents after the contract award.

Contact the Procurement Officer if you feel a proposal does not comply with a mandatory requirement (such as a minimum number or years experience or a required license, etc.) or if you have questions about the scoring process.

Members of the evaluation committee will need to review and evaluate each proposal individually, without discussing their evaluation with other PEC members. Do not

communicate with any of the vendors who submitted a proposal prior or after the evaluation. Notify the Procurement Officer if a vendor attempts to contact individual evaluation committee members.

### **COMPARING OFFERS**

At first glance it may seem obvious that proposals should be compared to one another in order to select the best one. While it's true that a certain amount of comparison naturally occurs during the evaluation process, proposals must be evaluated or scored using the criteria set out in the RFP. In addition, evaluation committee members should record brief comments that lend insight on why they awarded points or failed to award points based on RFP evaluation criteria for a particular item.

### **CONSOLIDATION OF INDIVIDUAL EVALUATION SCORES**

After every one has completed the evaluation process, the PEC can meet as a group to discuss the proposals and identify and make clarifications. If aspects of a proposal need to be clarified, the Procurement Officer or the PEC may communicate with an offeror to clarify uncertainties or eliminate confusion. This communication may not result in a material or substantial change to the proposal, but evaluation committee members modify their scores during the discussion/clarification period. The individual scores will then be read and a total of the combined scores will be calculated.

If any scores appear unusual, the Procurement Officer should ask the evaluator to explain their scores, or reconsider if an error seems apparent. Evaluators should always have a reasonable, rational, and consistent basis for your scores, as the evaluator might be required to explain the scores in the event of a protest.

### **DISCUSSIONS WITH OFFERORS**

After the initial evaluation, offerors of proposals reasonably susceptible for award may be offered the opportunity to discuss their proposals with the procurement officer or the PEC at the discretion of the Procurement Officer. The Procurement Officer may limit discussions to specific sections of the proposals received or specific sections of the request for proposals.

Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. The opportunity for confidential discussions, if held, must be extended to all offerors submitting proposals deemed reasonably susceptible for award. Do not use any "auction techniques" that reveal one offeror's price to another and do not disclose any information derived from competing proposals. Any oral modification of a proposal resulting from discussions must be reduced to writing by the offeror.

### **BEST AND FINAL OFFER**

On occasion, the PEC may not be satisfied with the proposals or feel that the proposals could be improved upon. The PEC may determine that it is in the best interest of the State to request best and final offers. The agency initiates the request for best and final offer; the process is not initiated by an offeror's request for an opportunity to submit a

best and final offer. Best and final offers are not necessary when the PEC is satisfied with the proposals received.

Document which offerors will be notified and provided the opportunity to submit best and final offers. Send out the request for best and final offers in a letter stating any specific areas to be covered and the date and time in which the best and final offer must be returned. The conditions, terms, or price of the proposal may be altered or otherwise changed, provided the changes are within the scope of the request for proposals and instructions contained in the request for best and final offer.

Best and final offers should normally be submitted only once. However, the procurement officer may make a written determination that it is in the State's best interest to conduct additional discussions or change the State's requirements and require another submission of best and final offers. If an offeror does not submit a best and final offers or a notice of withdrawal, the offeror's previous proposal is considered the offeror's best and final proposal.

After best and final offers are received, final evaluations will be conducted. Best and final offers must be reviewed and scored using the same evaluation criteria published in the RFP.

### **APPLYING PREFERENCE LAWS**

Before evaluating the cost proposal, the Procurement Officer must identify any proposals received from out-of-state offerors and apply North Dakota's preference law, as required by N.D.C.C. 44-08-01. Determine whether the state of the non-resident offeror has a preference law. Visit the State Procurement Office website at [www.state.nd.us/csd/spo](http://www.state.nd.us/csd/spo) under "Resources" for a listing of state preference laws. Contact the State Procurement Office at 701-328-1726 for assistance.

N.D.C.C. 44-08-02 defines a resident North Dakota bidder, seller, or contractor as "a bidder, seller, or contractor who has maintained a bona fide place of business within North Dakota for at least one year prior to the date on which a contract was awarded."

### **COST EVALUATION**

Normally, cost is taken into consideration after the "qualitative" factors have been evaluated. Cost does not need to be evaluated by everyone on the evaluation committee. It is recommended that cost be evaluated by at least two people, and discussed with the committee.

After making any adjustments for reciprocal preference, convert the price to points. The proposal with the lowest cost receives the maximum points allowed. All other proposals receive a percentage of the points available based on their cost relationship to the lowest cost proposal. Divide the lowest cost proposal received by the cost of the proposal being rated, and multiply the results by the maximum points. The result is the awarded points.

This is determined by applying the following formula:

$$\frac{\text{Price of Lowest Cost Proposal}}{\text{Price of Proposal Being Rated}} \times \text{Maximum points available} = \text{Awarded Price points}$$

Example: The total point available for cost in the RFP was forty (40) points. The cost of the lowest acceptable proposal is \$100,000. Therefore the lowest proposal cost of \$100,000 would be awarded forty (40) points. The second lowest acceptable proposal submitted a cost of \$125,000. The second lowest proposal cost of \$125,000 would be awarded thirty-two (32) points.

$$\frac{\$100,000}{\$125,000} = .80 \times 40 = 32 \text{ points}$$

The points awarded for cost are combined with the total points awarded for the technical proposal to determine the successful proposal.

### **QUALITY ASSURANCE**

Before making the award, the Procurement Officer must ensure the quality control of the evaluation process by checking any mathematic computations and ensuring only those criteria identified were considered. The integrity of the process and state procurement system is grounded upon the Procurement Officer and evaluation committee adhering to the procedures and evaluation requirements stated in the RFP.

Evaluations must not be influenced or based upon discrimination due to the race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, disability, or political affiliation of the offeror.

### **NOTICE OF INTENT TO AWARD**

After the successful proposal is selected, a notice of award will be sent to all offerors and any other interested parties. This Notice of Intent to Award contains the following information:

- Name of the issuing agency
- Solicitation number and name
- List all vendors that submitted proposals
- Name the successful vendor.
- Notice of the right to protest the award in writing to the responsible Procurement Officer within seven days after the interested party knew or should have known about the award decision.
- Procurement Officer name and contact information.

The Intent to Award letter also provides the successful offeror(s) with notice that they are required to execute a contract with the State and provide any required proof of insurance or bonds within a specified number of days (usually ten working days) after the notice of award.



## **REJECTION OF ALL BIDS AND RE-BIDDING**

On occasion, a decision may be made to reject all bids or proposals received. Reasons might include: none of the responses met the specifications, the prices received were not reasonable or exceeded the budgeted amount, or competition was insufficient (e.g. few, if any, competitive bids were received). Provide a written justification whenever a decision is made to reject all bids or proposals. Notify all vendors that responded to the solicitation and explain why all bids or proposals were rejected. The solicitation process may be repeated or canceled altogether.

Repeating the bidding process immediately is acceptable when there are significant changes to the specifications, more vendors are given the opportunity to bid, or there were mistakes in the original solicitation. In fairness to the vendors whose prices have been revealed to their competitors through the bidding process, a solicitation that was opened, but not awarded should not be reissued for at least three months. If the solicitation process is repeated sooner, the procurement officer should document the reason.

## **REQUESTS FOR PUBLIC INFORMATION**

After the Notice of Intent to Award is issued, the proposals and contents of the procurement file become subject to state open records laws. You can expect to receive requests for copies of proposals and evaluation documents. Remember, information can only be confidential if determined to be so under state or federal law.

Offerors will very commonly mark their proposals as “confidential.” Before releasing the proposal to the requestor, contact the firm that submitted the proposal and inform them that you have received a request for public information. Tell them that ND has an open records law, so information can only be kept confidential if it determined to be so under North Dakota or Federal law. Then, point out that their whole proposal is marked “Confidential.” Ask them to indicate specifically what information or sections they consider confidential. Requests for public information must be answered promptly, so give the firm a deadline to respond to you. You can also send the offeror the link to the Office of the Attorney General’s open records brochure on their website at: <http://www.ag.state.nd.us/OpenRecords/ORM.htm>.

If the request for public information includes the section that the offeror feels is confidential, contact your assistant attorney general to help determine whether or not that section can be made open or must be kept confidential.

## **PROTESTS, APPEALS, AND LAWSUITS**

Protests, Appeals, and lawsuits are a part of procurement life. It is possible that that one or more of these actions could occur over the procurement for which you serve as an evaluator. Such actions may or may not center on your activities as an evaluator, but generally they are not. Most actions are related to procedural issues and involve only the decision of the Procurement Officer. However, it’s not uncommon for a

protester to review the scoring of individual evaluators. That's why it's essential that you work hard to score the offers in a consistent and explainable manner.

***Thank you for your participation in this RFP process!***